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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,870	05/30/2001	Johan I.J. Venter	A34340	9003

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EXAMINER	
SRIVASTAVA, VIVEK	
ART UNIT	**PAPER NUMBER**
2617	

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/867,870	VENTER, JOHAN I.J.	
	Examiner	Art Unit	
	Vivek Srivastava	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14 and 16-28* is/are rejected.

7)☒ Claim(s) *15 and 29* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 8 and 16 – 22 are rejected under 35 U.S.C. 102(b) as being anticiapted by Russo (US 5,619,247).

Regarding claims 1 and 16, Russo discloses a method and system for playing stored video programs in a pay-per-play system. Russo discloses program provider (see col 6 lines 8 – 21, col 10 lines 22 – 39) inherently associated with a repository of video programs. It is noted the repository is inherently includes as a storage means must be associated with the program provider to provide video programs to a user. Russo further discloses every time a program is played, i.e. a user requesting to play a stored program, the request is sent upstream from the user to the program provider for authorization. Russo discloses the user's account is debited, and authorization is provided by transmitting a authorization key provided the user is in good standing with respect to credit (see col 10 lines 23 – 48, col 5 lines 23 - 31). It is noted that since the program provider has a register of user's accounts, Russo discloses the claimed "the administration facility having a register of authorized users of the repository".

Russo further discloses tuner 4 with program storage 14 and thus discloses the claimed 'at least one television broadcast receiver remote from the repository, the at least on television broadcast receiver having an associated storage means'.

Russo discloses a satellite communication channel between the repository and the broadcast receiver which carries television channels (see col 6 lines 9 – 15, col 3 lines 40 – 63, see fig 1 – tuner 4 and TV 8 receive channels).

Russo inherently discloses a transmitter, since program are received at the user location, along the satellite channels, and locally storing the video programs (see col 4 lines 28 – 35, col 6 lines 9 – 21).

Russo further discloses an activation facility, at the program provider, which transmits a code or key enabling a user to activate or unlock a stored scrambled program (see col 6 lines 8 – 15) for viewing on TV 8 (fig 1).

Regarding claim 2 and 17, Russo discloses the claimed billing facility operable to bill the registered user of the system as a function of a number of stored video programs viewed by the registered viewer (see col 5 lines 10 – 32, col 10 lines 22 – 49).

Regarding claims 3 and 18, Russo discloses a return communication channel to access and request authorization (see col 10 lines 23 – 37).

Regarding claims 4, 5, 19, Russo discloses a return telephonic communication channel which is inherently both dialup and either terrestrial or satellite (see col 6 lines 10 – 20, col 3 lines 50 – 64).

Claims 6 and 20 are met by the above.

Regarding claims 7 and 21, Russo discloses the claimed in which the activation facility is operable by the registered viewer to enable any one of the plurality of selected stored video programs for viewing on the television broadcast receiver (see fig 1 and col 4 lines 45 – 67).

Regarding claims 8 and 22, Russo discloses the user can select the type of movies stored i.e. Westerns (see col 4 lines 59 – 63) and thus disclose the claimed 'discretion of the user' limitation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 10, 11, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (US 5,619,247).

Regarding claims 10, 11, 24 and 25 Russo fails to disclose the claimed video programs transmitted from the repository and stored in the storage means is selected as a function of a historical viewing pattern of the registered user and the claimed in which the historical viewing pattern of the registered user is determined as a function of an evaluation of any video program after viewing thereof by the registered viewer.

Official Notice is taken it would have been well known to transmit video programs as a function of a historical viewing pattern or user behavior in which the historical

pattern is determined after an evaluation of a program by the user. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Russo to include the claimed limitation for the benefit of providing a user with preferred programming.

Claims 9 and 23 are are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (US 5,619,247) in view of McCoy et al (US 6,526,575).

Regarding claims 9 and 23, Russo fails to disclose the claimed plurality of video programs transmitted from the repository and stored in the storage means is according to box office ratings.

In analogous art, McCoy teaches a system and method for distributing broadcast multimedia according to broadcast ratings (see col 9 lines 23 – 38 and col 11 lines 43 – 50). It would have been obvious transmit video programs in Russo according to box office ratings. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Russo to include the claimed limitation for the benefit of providing a user with popular movies.

Claims 12, 13, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (US 5,619,247) in view of Cantone et al (US 5,734,781).

Regarding claims 12, 13, 26 and 27 Russo fails to disclose the claimed in which the plurality of video programs transmitted from the repository and stored in the storage means has a finite residence time in the storage means and the claimed in which a

stored video program is erased from the storage means after effflluxion of the finite residence time.

In analogous art, Cantone teaches a concern for rental agencies is to prevent consumers from watching the same movie forever and teaches a method for preventing this is to automatically erase a movie after the rental period is over (see col 5 lines 58 – 67). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Russo to include the claimed limitation for the benefit of addressing the concerns of rental agencies or program providers and to ensure the user does not abuse viewing privileges.

Claims 14 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo (US 5,619,247) in view of Garfinkle (US 5,400, 402).

Regarding claims 14 and 28, Russo fails to disclose the claimed in which the plurality of video programs is stored in the storage means until viewed by the registered viewer.

In analogous art, Garfinkle teaches downloading movies in a video on demand system, in which movies are erased after a pre-determined number of viewings, including one (see col 3 lines 27 – 49) or until 'viewed by the viewer'. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Garfinkle to include the claimed limitation for the benefit of preventing a user from abusing the rental privileges.

Allowable Subject Matter

Claims 15 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cohen (US 4,949,187) – Downloading movies to a subscriber site

Hunter (US 2003/0133692) – Video distribution system

Neel et al (US 5,838,314) – Video services system

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Srivastava whose telephone number is (571) 272-7304. The examiner can normally be reached on Monday – Friday from 9 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272 – 7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vs
8/4/05

VIVEK SRIVASTAVA
PRIMARY EXAMINER